



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1552

Introduced 2/10/2005, by Rep. JoAnn D. Osmond

SYNOPSIS AS INTRODUCED:

35 ILCS 5/911.2-5 new
35 ILCS 5/911.3

Amends the Illinois Income Tax Act. Sets forth procedures by which the Department of Revenue may withhold an income tax refund to pay a taxpayer's debt to a municipality or county.

LRB094 07465 BDD 40394 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 911.3 and by adding Section 911.2-5 as
6 follows:

7 (35 ILCS 5/911.2-5 new)

8 Sec. 911.2-5. Refunds withheld; debt claims of local
9 governments.

10 (a) Definitions. As used in this Section:

11 "Debt" means:

12 (1) a parking citation of at least \$20 that is unpaid
13 and for which there has been no court appearance by the
14 date specified in the citation or, if no date is specified,
15 that is unpaid for at least 28 days;

16 (2) an unpaid fine, fee, restitution, or forfeiture of
17 at least \$20; and

18 (3) any other debt that is at least \$20, except debt
19 related to property taxes, if the debt has been reduced to
20 a judgment or the municipality or county to which the debt
21 is owed has provided the debtor reasonable notice and an
22 opportunity to be heard with regards to the debt.

23 "Income tax" means any amount of income tax imposed on
24 taxpayers under the laws of the State of Illinois, including
25 additions to tax for penalties and interest.

26 "Debtor" means a person who owes a debt to a municipality
27 or county.

28 "Refund" means a refund of overpaid income taxes imposed by
29 the State of Illinois.

30 (b) In general. A municipality or county may:

31 (1) certify to the Director the existence of a debtor's
32 debt; and

1 (2) request the Director to withhold any refund to
2 which the debtor is entitled.

3 (c) Certification. A certification by a municipality or
4 county to the Director must include:

5 (1) the full name and last known address of the debtor
6 and any other names known to be used by the debtor;

7 (2) the social security number or federal tax
8 identification number of the debtor; and

9 (3) the amount of the debt.

10 (d) Notification. As to any debtor due a refund, the
11 Director must:

12 (1) notify the debtor that a municipality or county has
13 provided certification of the existence of an debt;

14 (2) inform the debtor of the debt certified, including
15 a statement showing the debt amount, a description of the
16 debt, any interest, and any penalty;

17 (3) inform the debtor that failure to file a protest in
18 accordance with subsection (e) of this Section shall
19 constitute a waiver of any demand against this State for
20 the amount certified;

21 (4) inform the debtor that the refund has been withheld
22 and that the debt has been paid to the municipality or
23 county as provided in subsection (i) of this Section;

24 (5) provide the debtor with notice of an opportunity to
25 request a hearing to challenge the certification; and

26 (6) inform the debtor that the hearing may be requested
27 under Section 910 of this Act.

28 (e) Protest of withholding. A debtor may protest the
29 withholding of a refund pursuant to Section 910 of this Act
30 (except that the protest must be filed within 30 days after the
31 date of the Director's notice of certification under subsection
32 (d) of this Section).

33 (f) Certification as prima facie evidence. If the debtor
34 requests a hearing under Section 910 of this Act, the
35 certification of the municipality or county is prima facie
36 evidence of the correctness of the debt.

1 (g) Rights of spouses to refunds from joint returns. If a
2 certification is based upon the debt of only one taxpayer and
3 if the refund is based upon a joint personal income tax return,
4 the nondebtor spouse shall have the right to:

5 (1) notification, as provided in subsection (d) of this
6 Section;

7 (2) protest, as to the withholding of the nondebtor
8 spouse's share of the refund, as provided in subsection (e)
9 of this Section; and

10 (3) payment of his or her share of the refund, provided
11 the amount of the overpayment refunded to the spouse shall
12 not exceed the amount of the joint overpayment.

13 (h) Withholding and payment of refund. Upon receipt of a
14 request for withholding in accordance with subsection (b) of
15 this Section, the Director shall:

16 (1) withhold any refund that is certified by the tax
17 officer;

18 (2) pay to the municipality or county the entire refund
19 or the amount certified, whichever is less;

20 (3) pay any refund in excess of the amount certified to
21 the debtor; and

22 (4) if a refund is less than the amount certified,
23 withhold amounts from subsequent refunds due the debtor.

24 (i) Notice to the municipality or county. After receiving a
25 certification from a municipality or county, the Director shall
26 notify the municipality or county of the Director's
27 determination that a withholding can or cannot be made.

28 (j) Director's authority. The Director has the authority to
29 enter into agreements with the municipalities and counties
30 relating to:

31 (1) procedures and methods to be employed by a
32 municipality or county with respect to the operation of
33 this Section;

34 (2) safeguards against the disclosure or inappropriate
35 use of any information obtained or maintained pursuant to
36 this Section that identifies, directly or indirectly, a

1 particular taxpayer; and

2 (3) a minimum debt, amounts below which, in light of
3 administrative expenses and efficiency, shall, in the
4 Director's discretion, not be subject to the withholding
5 procedures set forth in this Section.

6 (k) Administrative fee. The Director may charge and collect
7 from a participating municipality and county a processing fee
8 based upon the estimated amortized program costs and reviewed
9 and adjusted yearly, if needed. This fee shall be based upon
10 amounts withheld by the Department and not on amounts certified
11 to the Department.

12 (l) Remedy not exclusive. The collection procedures under
13 this Section are in addition to, and not in substitution for,
14 any other remedy available by law.

15 (35 ILCS 5/911.3)

16 Sec. 911.3. Refunds withheld; order of honoring requests.
17 The Department shall honor refund withholding requests in the
18 following order:

19 (1) a refund withholding request to collect an unpaid
20 State tax;

21 (2) a refund withholding request to collect certified
22 past due child support amounts under Section 2505-650 of
23 the Department of Revenue Law of the Civil Administrative
24 Code of Illinois;

25 (3) a refund withholding request to collect any debt
26 owed to the State;

27 (4) a refund withholding request made by the Secretary
28 of the Treasury of the United States, or his or her
29 delegate, to collect any tax liability arising from Title
30 26 of the United States Code;

31 (5) a refund withholding request pursuant to Section
32 911.2 or Section 911.2-5 of this Act; and

33 (6) a refund withholding request to collect certified
34 past due fees owed to the Clerk of the Circuit Court as
35 authorized under Section 2505-655 of the Department of

1 Revenue Law of the Civil Administrative Code of Illinois.
2 (Source: P.A. 92-826, eff. 8-21-02; 93-836, eff. 1-1-05.)